

**From:** Douglas Mayne  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

To the Honorable Judge Kollar-Kotelly:

Here are my comments regarding the proposed settlement in the Microsoft Anti-trust Case.

1. The difference between Judge Jackson's proposed breakup and the proposed settlement is much too great. This gives the perception that a company can win if it can just outlast those pursuing it. The judiciary should be more stable than the executive, and not appear to flow with changes in administration.
2. While Judge Jackson's behavior outside the court was stupid and a poor example to set as the court's representative, it should not have bearing on the finding of fact. However, if his behaviour is deemed too egregious, then start over from the beginning.
3. Microsoft's behaviour at trial was outrageous and contemptible. Here is a specific instance which stands out: the infamous Internet Explorer video with James Allchin on the stand. This video was requested by the court and was willfully manipulated to show an untruth. The video was a mockery, and Allchin and others responsible should be held accountable. It should not be just "another product demo" when presenting evidence in a U.S. court proceeding. Also, Gates statements about Microsoft keeping the companies overall financial records using paper and pencil were outrageous lies, considering his statements in "The Road Ahead."
4. Microsoft's agenda is to make money. They have been successful in capturing market share in every segment of the software industry where they chosen to compete. It has been noted that Microsoft's cash reserves can be used to out spend any rival in product advertising and governmental lobbying.
5. Microsoft's business agenda does not complement the nation's desire to secure its computer infrastructure. Microsoft's software vulnerabilities have led to exploitation and business interruption. Any settlement, short of the breakup, needs to address how Microsoft will work with the software community to address this serious problem. The "code red" virus has shown a few infected systems connected to a high speed network can do great damage.
6. Microsoft's business agenda forces an "upgrade path" upon end users to ensure a continuing revenue stream. This is not necessary or rational, especially now that the PC has matured and works well enough

for everyday business use. Software should be treated the same as a "consumer durable good," much like a washing machine. Case in point: the comparable prices for Office XP and a Maytag washer.

Microsoft's approach is to simply declare software obsolete, and unsupported after a specified date. This is not the best choice for business, as new versions always contain bugs and vulnerabilities. The maturity of Windows NT at Service Pack 6 provides a stable base to build a business on, and appears to have advantages over later, more complex software such as Windows 2000 or Windows XP.

Because Microsoft holds the copyright to their software, they can choose to market it how they please, or withdraw it from the market entirely. This limits consumer choice and is unfair.

In the breakup scenario, I envisioned the "children" competing against one another to distinguish their product. A product offering the most stable and secure platform would have had appeal to business users, and would have been worth supporting through continuing fees for bug and security fixes. Without the breakup, this is an unlikely outcome as Microsoft sees there is much more profit in entirely new versions.

7. Without a major remedy, Microsoft's egregious behaviour will continue. Consumers will have less choice and be forced to pay the monopolist's price. This is the continuing harm to consumers which was a finding of fact.

Thank You,  
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